

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Daucher Analyst: Gloria McConnell Bill Number: AB 293

Related Bills: None Telephone: 845-4336 Introduced Date: 02/06/03

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exemption/Earnings applied Toward Health Care Contribution/Small Business Voluntary Access To Health Care Coverage Act

SUMMARY

This bill would generally allow full-time employees of small businesses to contribute one hour a week of paid, tax-free, overtime towards the employees' share of health care coverage costs.

PURPOSE OF THE BILL

According to the author's office, this bill is intended to help small businesses obtain health care coverage for employees.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2004. The provisions that would affect personal income taxes would apply to taxable years beginning on or after that date.

POSITION

Pending.

Summary of Suggested Amendments

Department staff is available to assist with any aspects of the bill that may affect the Personal Income Tax Law (PITL) or Corporation Tax Law (CTL), which are administered by the Franchise Tax Board (FTB).

ANALYSIS

FEDERAL/STATE LAW

Under current federal and state income tax laws, employees are allowed to exclude (exempt) from taxable income wage amounts applied toward their contributions to employer-provided health care coverage.

Employment Development Department (EDD) administers payroll tax laws, which include: unemployment taxes paid by employers, state disability insurance and personal income taxes withheld from employee's wages. The Department of Industrial Relations is responsible for administering California's workers' compensation insurance program and other labor laws.

Board Position:

| | | |
|----------|-----------|------------------------|
| _____ S | _____ NA | _____ NP |
| _____ SA | _____ O | _____ NAR |
| _____ N | _____ OUA | _____ <u>X</u> PENDING |

Department Director
Gerald H. Goldberg

Date
04/09/03

THIS BILL

This bill would permit small businesses to allow full-time employees to work one hour each week in addition to the employee's regularly scheduled number of work hours (hereinafter, overtime).

The amount earned for the extra hour of work would be applied to pay the employee's health care contribution amount and would be exempt from the following:

1. Any overtime compensation requirements, to the extent allowed by federal law.
2. Inclusion as taxable income for state personal income tax purposes.
3. State disability insurance withholding requirements.
4. Calculation of the premium amount for workers' compensation insurance.
5. Inclusion as income for federal personal income tax purposes and for purposes of the Federal Insurance Contribution Act, to the extent allowed by federal law.

The amount contributed by the employee toward the costs of the health care coverage would be the lesser of either the employee's current gross hourly wage amount or twice the applicable federal minimum wage amount.

This bill includes the following definitions:

- "Full-time employee" means an individual who is employed in a permanent position for a minimum of 40 hours per week.
- "Small business" shall have the same meaning set forth in subdivision (w) of Section 10700 of the Insurance Code, which, in general, would be an employer having two to 50 employees.

IMPLEMENTATION CONSIDERATIONS

According to the author's office, the primary focus of this bill is the exemption from payroll taxes and other labor-related requirements. The author's staff agrees that the overtime wages that would be contributed toward employer-paid health care coverage under this bill are currently exempt from state and federal income taxation. As such, this bill as it relates to the PITL is merely a statement of current law. However, in setting forth a limitation of the amount that can be contributed (i.e., the lesser of the gross hourly wage or two times the federal minimum wage amount), complexity is added to the bill. This complexity may cause confusion and cloud whether the exemption from taxation is merely a restatement of current law. The author's staff has indicated that because of the overall confusion generated by this limitation, this provision will be removed from the bill.

Once this limitation is removed (or otherwise clarified), this bill would not affect FTB's programs or operations.

OTHER STATES' INFORMATION

Review of, *Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax treatment for employee's contributing to small business-provided health care coverage through overtime wages. These states were reviewed due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

Departmental Costs

Implementing this bill would not significantly impact the department's programs and operations.

ECONOMIC IMPACT

Revenue Estimate

Because employees currently exclude wage amounts applied to employer-provided health care coverage, this bill would not impact state tax revenue under the PITL.

LEGISLATIVE STAFF CONTACT

Gloria McConnell
Franchise Tax Board
845-4336
gloria.mcconnell@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.Putler@ftb.ca.gov